

**NATIONAL COMPANY LAW TRIBUNAL,
COURT-V, MUMBAI BENCH
C.P. (IB) No. 544/IBC/MB/2020**

Under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudication Authority) Rule 2016)

In the matter of

Dhaga Ghar Threads Private Limited

Having registered office at:

Shop No. 1 and 2, Manik Co-operative Housing Society Ltd., S. J. Marg, Lower Parel, Mumbai-400013.

.....Operational Creditor/Petitioner

Vs

R-Brands Lifestyle Private Limited

Registered office at:

C-204, Neelkanth Business Park, Near Vidya Vihar Railway Station, Vidya Vihar (W), Mumbai 400086.

.....Corporate Debtor

Date of the order: 02.05.2023

Coram:

Hon'ble Shri Kuldip Kumar Kareer, Member (Judicial)

Hon'ble Shri Prabhat Kumar, Member (Technical)

Appearances (via Video Conferencing):

For the Petitioner: Ms. Geeta Lundwani, Advocate.

For the Corporate Debtor: None.

Per: Kuldip Kumar Kareer, Member (Judicial)

ORDER

1. This Company Petition is filed by **Dhaga Ghar Threads Private Limited** (hereinafter called "**Petitioner**") seeking to initiate Corporate Insolvency Resolution Process (**CIRP**) against **R-Brands Lifestyle Private Limited** (hereinafter called "**Corporate Debtor**") alleging that the Corporate Debtor committed default as on 13.12.2019 to the extent of Rs. 6,28,672/- inclusive of interest @24% p.a. with regards to the outstanding payments to the Petitioner. This Petition has been filed by invoking the provisions of Section 9 Insolvency and Bankruptcy Code, 2016 (hereinafter called "**Code**") read with Rule 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
2. The following table demonstrates the operational debt due and payable by the Corporate Debtor to the Petitioner:

Sr. No.	Particulars	Total
1	Amount of debt including interest due and payable by the Corporate Debtor claimed by Operational Creditor as on the date of the Notice after adjustment of part payment done as claimed in demand notice dated 30.11.2019	Rs. 6,05,630/-
2	Further interest payable @24% p.a. from 14.11.2019 to 31.01.2020	Rs. 23,042/-
3	Total Amount Of Debt Due And Payable Is I +II (Rupees Six Lakhs Twenty Eight Thousand Six Hundred Seventy Two Only).	Rs. 6,28,672/-

3. The Petition reveals that the Petitioner is a private limited company involved in the business of manufactured and sale of threads and garment assessment. The Corporate Debtor has placed various purchase orders and accordingly the Petitioner supplied goods and raised invoices.

4. The total amount of invoices for which transactions occurred is of Rs. 8,48,910/- out of which a sum of Rs. 4,58,977/- is made as a part payment. Further, the unpaid principal amount is of Rs. 3,89,933/-, plus the total interest amount is of Rs.2,38,738/- till 31.01.2020. Therefore, the total amount of debt is Rs. 6,28,627/- as explained in the table above.
5. Since the Corporate Debtor failed to make any further payment after 15.07.2019, the Petitioner issued a Demand Notice dated 30.11.2019 calling upon the Corporate Debtor to make the payment of Rs. 6,05,630/- inclusive of interest @24% p.a. The said Demand Notice under Section 8 of Code was dispatched on 30.11.2019 to the registered office and branch office of the Corporate Debtor calling upon to make the payment of Rs.6,05,630/- within a period of 10 days. The said notice was received on 02.12.2019 and the period of 10 days expired on 12.12.2019.
6. However, even after the receipt of the said demand notice, the said Corporate Debtor has failed and neglected to make the payment of Rs.6,05,630/- within a period of 10 days and also failed to raise any notice of dispute as contemplated under Section 8 of the Code.
7. The Corporate Debtor has received the said demand notice on 02.12.2019, but has not filed any reply till date and also failed to make the payment of the debt amount of Rs.6,05,630/- as claimed in the Demand Notice. Hence this Petition.
8. Upon notice, none appeared for the Corporate Debtor despite valid service and therefore, the Corporate Debtor was proceeded against ex-parte.

FINDING:

9. We have heard the Counsel for the Petitioner and perused the materials available on record.
10. During the course of arguments, it has been contended by the counsel for the Petitioner that the Petitioner supplied goods to the Corporate Debtor by

way of invoices, the total amount of which is Rs. 8,48,910/-. The Corporate Debtor has not disputed the receipt of the goods supplied which is evident from the fact that the Corporate Debtor made part payment of Rs. 4,58,977/-.

11. The Counsel for the Petitioner has further contended that since the Corporate Debtor failed to make any further payment after 15.07.2019, a Demand Notice u/s. 8 was issued on 30.11.2019 calling upon the Corporate Debtor to make the payment of Rs. 6,05,630/- inclusive of interest @24% p.a. and further, the said Demand Notice was dispatched on 30.11.2019 and received on 02.12.2019 by the Corporate Debtor. The Corporate Debtor has not filed any reply to the said Demand Notice controverting the allegations made therein.
12. Since the above Company Petition has been filed on 10.02.2020 and the date of e-filing is 07.02.2020 which is much prior to the Government Notification dated 24.03.2020, the minimum threshold limit of Rs. 1 lakh will only be applicable in this case.
13. From the perusal of pleadings and documents relied upon by the Petitioner, which have not been controverted at all by the Corporate Debtor, it is evident that the Corporate Debtor has defaulted in repayment of Operational Debt to the tune of Rs. 6,28,672/- giving a cause of action to the Petitioner to invoke the provisions of Section 9 of the Code. Therefore, we are of the considered view that this Petition deserves to be admitted. It is ordered accordingly in following terms:

ORDER

- a. The above Company Petition No. 544/IBC/MB/2020 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against **R-Brands Lifestyle Private Limited.**
- b. **Mr. Hemant Shripad Shetye**, having registration No. IBBI/IPA-002/IP-N00894/2019-2020/12872, is hereby appointed as Interim

Resolution Professional to conduct the Insolvency Resolution Process as mentioned under the Insolvency & Bankruptcy Code, 2016.

- c. The Petitioner shall deposit an amount of Rs. 2 Lakhs towards the initial CIRP costs by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order.
- d. That this Bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority; transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.
- e. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- f. That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- g. That the order of moratorium shall have effect from the date of pronouncement of this order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 or passes an order

for liquidation of corporate debtor under section 33, as the case may be.

- h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under Section 13 of the Code.
- i. During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the corporate debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.
- j. Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.
- k. Accordingly, CP (IB) No. 544 of 2020 is **admitted**.

SD/-

PRABHAT KUMAR
Member (Technical)

SD/-

KULDIP KUMAR KAREER
Member (Judicial)